

TITLE 13. NEW MOTOR VEHICLE BOARD

NOTICE OF PROPOSED ACTION

NOTICE IS HEREBY GIVEN that the New Motor Vehicle Board of the State of California ("Board"), pursuant to the authority vested in it by Section 3050, subdivision (a) of the Vehicle Code, proposes to amend section 553 of the regulations contained in Title 13 of the California Code of Regulations in order to reduce the annual fees paid by new vehicle dealers, manufacturers and distributors to fund the Board's activities.

PROPOSED REGULATORY ACTION

The Board proposes to amend section 553 after consideration of all comments, objections, and recommendations regarding the proposed action.

PUBLIC DISCUSSIONS PRIOR TO NOTICE

Prior to the publication of this notice, the proposal to reduce the annual Board fees was considered at a noticed General meeting of the Board held on November 28, 2000. The proposed text of the amendments to section 553 was considered and approved by the Board at a noticed General meeting of the Board held on January 18, 2001. Ten days prior to each of the meetings, a detailed agenda including the consideration of the proposal to reduce the Board's fees and the proposed amendments to the regulation was mailed to the Board's Public Mailing List, a list of approximately 150 individuals, entities and governmental agencies who have requested notification by the Board of pending Board matters. No comments by the public were received at either the November 28, 2000, meeting, or the January 18, 2001, meeting, and no further public discussions were held.

PUBLIC HEARING

A public hearing to receive oral or written comments on these regulations will be held at the following time and place:

DATE: August 27, 2001

TIME: 10:00 a.m.

PLACE: New Motor Vehicle Board
Hearing Room #2
1507 21st Street, Suite 330
Sacramento, California 95814

At the hearing, any person may present statements or arguments orally or in writing via U.S. Postal Service mail, facsimile or electronic mail, relevant to the proposed action described in the Informative Digest. The hearing will continue until all oral and written comments are presented. The Board requests but does not require that a person who makes comments at the hearing also submit a written copy of their testimony at the hearing.

WRITTEN COMMENT PERIOD

Notice is also given that any person interested may present statements or arguments in writing via U.S. Postal Service mail, facsimile or electronic mail, relevant to the proposed amendments to the agency officer named below at the address identified below on or before 5:00 p.m. on August 27, 2001. The Board will consider only comments received at the Board offices by that time. Submit comments to:

Mike Dingwell, Staff Counsel
New Motor Vehicle Board
1507 21st Street, Suite 330
Sacramento, CA 95814
(916) 445-2080
Fax: (916) 323-1632
E-mail: www.nmvp@pacbell.net

The official record of the rulemaking procedure will be closed at 5:00 p.m. following the conclusion of the public hearing on August 27, 2001. Written comments received after 5:00 p.m. on August 27, 2001, will not be considered unless an extension of time in which to receive written comments is announced at the public hearing.

AUTHORITY AND REFERENCE

Vehicle Code section 3050, subdivision (a) authorizes the Board to amend the proposed regulation. Reference: Sections 11723 and 3016, Vehicle Code; and Section 472.5(b), Business and Professions Code.

INFORMATIVE DIGEST/POLICY STATEMENT OVERVIEW

Vehicle Code section 3050, subdivision (a) authorizes the Board to adopt rules and regulations governing such matters as are specifically committed to it.

It is the mission and vision of the Board, as adopted by its members, to: resolve disputes in the new motor vehicle industry in an efficient, fair and cost-effective manner; safeguard for the Board's constituency, a fair, expeditious and efficient forum for resolving new motor vehicle industry disputes which ultimately improves relations and

reduces the need for costly litigation; and, develop methods that further improve the delivery of Board services in a timely and cost-effective manner.

The amendment of Title 13 CCR section 553 will effect the goals of the Board in that reducing the annual fees paid to fund the Board's activities provides a more cost-effective forum.

Due to a one time accounting adjustment of \$1.3 million, the Board's surplus had risen to more than \$2.6 million. In an effort to reduce that surplus, the Board reduced the annual fees paid by new vehicle dealers, manufacturers and distributors, to \$00.00 for a period of one year. Upon consideration of the status of the Board's surplus after the annual fees had been reduced, it was determined that surplus would still remain too excessive.

The adoption of the proposed regulation would reduce the fees paid by new vehicle dealers, manufacturers and distributors by 25% or \$225.00 for new vehicle dealers and \$.338 per vehicle for manufacturers and distributors. The proposed regulation is consistent with Vehicle Code section 3016.

DISCLOSURES REGARDING THE PROPOSED ACTION

The Board has made the following determinations:

EFFECT ON SMALL BUSINESSES

The Board has made a determination that the proposed amendments may likely have a positive effect on small businesses to the extent that any portion of new vehicle dealers, manufacturers and distributors which fund Board activities through payment of annual fees and which may be classified as small businesses will see a 25% reduction in the amount of fees required to be paid.

COST TO LOCAL AGENCIES AND SCHOOL DISTRICTS

The proposed regulatory action does not impose a mandate on local agencies or school districts.

FISCAL IMPACT STATEMENT

The proposed regulatory action imposes (1) no costs or savings to any state agency; (2) no costs to any local agency or school district that is required to be reimbursed under Part 7 (commencing with Section 17500) of Division 4 of the Government Code; (3) no other non-discretionary costs or savings to local agencies; and (4) no costs or savings in federal funding to the state.

EFFECT ON BUSINESSES

The Board has made an initial determination that the proposed regulatory action will not have a significant statewide adverse economic impact directly affecting business including the ability of California businesses to compete with

businesses in other states. No studies or data were relied upon in making this determination.

POTENTIAL COST IMPACT ON PRIVATE PERSONS OR BUSINESSES

The cost impact of the proposed regulatory action is expected to be inconsequential on directly affected private persons. The Board expects any cost impact on directly affected businesses to be a positive effect in that directly affected businesses will see a 25% reduction in the amount of fees required to be paid to fund Board activities.

ASSESSMENT REGARDING THE EFFECT ON JOBS/BUSINESSES

The adoption of this regulation will neither create nor eliminate jobs or businesses in the State of California, will not result in the elimination of existing businesses, and will neither reduce or expand businesses currently doing business in the State of California.

EFFECT ON HOUSING COSTS

The proposed regulatory action will have no impact on housing costs.

CONSIDERATION OF ALTERNATIVES

In accordance with Government Code section 11346.5, subdivision (a)(13), the Board must determine that no reasonable alternative it considered, or that has otherwise been identified and brought to the attention of the Board, would be more effective in carrying out the purpose for which the action is proposed or would be as effective and less burdensome to affected private persons than the proposed action.

At the January 18, 2001, General meeting, wherein the Board adopted the proposed regulatory text, the Board considered the following several options:

1. Retaining the current fee structure, i.e., \$300 per dealership and \$.045 per vehicle sold or distributed by a manufacturer or distributor, with a minimum of \$300. Staff projected that the Board's surplus would rise to \$3,348,000 in Fiscal Year 05-06 under the current structure.
2. Implementing a fee structure of \$225 per dealership and \$.338 per vehicle sold or distributed by a manufacturer or distributor, with a minimum of \$225. This would represent a 25% reduction for dealers and a 25% reduction for manufacturers and distributors from the current structure. Staff projected the Board's surplus would be \$1,533,000 in Fiscal Year 05-06 under this plan.
3. Implementing a fee structure of \$200 per dealership and \$.030 per vehicle sold or distributed by a manufacturer or distributor, with a minimum of \$200. This represents a 33% reduction for dealers and a 33% reduction

for manufacturers and distributors from the current structure. Staff projected that the Board's surplus in FY 05-06 would be \$923,000 under this plan.

In addition, when the proposed text of the amendments to section 553 was considered and approved by the Board at the January 18, 2001, Board meeting, Board President, Robert T. (Tom) Flesh invited and encouraged the submission of written and oral comments. Furthermore, Mr. Flesh indicated that the Board instructing staff to go forward with the proposed rulemaking, did not necessarily indicate final Board action. If any written or oral comments were received, the full Board would consider the comments and reconsider the text of the proposed rulemaking. Lastly, if the staff decided that modifications to the proposed text were necessary, the Board would consider those modifications at a noticed meeting. If there were no written or oral comments received, then the rulemaking process will proceed without further Board involvement.

CONTACT PERSON/BACKUP CONTACT PERSON

Please direct inquiries concerning the substance of the proposed action, requests for copies of the proposed text (the "express terms") of the regulation, the initial statement of reasons, the modified text of the regulations, if any, or other information upon which the rulemaking is based to:

Mike Dingwell, Staff Counsel
New Motor Vehicle Board
1507 21st Street, Suite 330
Sacramento, CA 95814
Telephone: (916) 445-2080

In the event the Contact Person is not available, inquiries concerning the substance of the proposed action, requests for copies of the proposed text (the "express terms") of the regulation, the initial statement of reasons, the modified text of the regulations, if any, or other information upon which the rulemaking is based may be directed to the following Backup Contact Person:

Robin P. Parker, Staff Counsel
New Motor Vehicle Board
1507 21st Street, Suite 330
Sacramento, CA 95814
Telephone: (916) 445-2080

AVAILABILITY OF INFORMATION VIA THE INTERNET

Information regarding the proposed amendments may be obtained from the Board's web site: www.nmvb.ca.gov after July 1, 2001.

STATEMENT OF REASONS AND TEXT OF PROPOSED REGULATIONS

The Board has prepared an initial statement of reasons for the proposed action, and has available all the information upon which the proposal is based. The express terms of the proposed action are written in plain English and are available from the contact person named in this notice. The contact person identified in this notice shall make available to the public upon request the express terms of the proposed action using underline to indicate additions, and strikeout to indicate deletions from, the California Code of Regulations. The contact person identified in this notice shall also make available to the public upon request the initial statement of reasons and the location of public records, including reports, documentation, and other materials, related to the proposed action.

AVAILABILITY OF MODIFIED TEXT

Following the written comment period and public hearing, the Board may adopt the proposed regulation substantially as described in this notice. If modifications are made which are sufficiently related to the originally proposed text, the full modified text with changes clearly indicated shall be made available to the public for at least 15 days prior to the date on which the Board adopts the resulting regulation. Requests for copies of a modified regulation should be addressed to the Board contact person identified in this notice. The Board will accept written comments on the modified regulation for 15 days after the date on which it is first made available to the public.

AVAILABILITY OF FINAL STATEMENT OF REASONS

Requests for copies of the final statement of reasons may be directed to the Contact Person or the Backup Contact Person listed in this Notice, or may be obtained from the Board's web site: www.nmvb.ca.gov after July 1, 2001.